



State of Idaho

## DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

November 22, 2005

BOB DUKE  
WATERMASTER, WATER DISTRICT NO. 34  
PO BOX 53  
MACKAY, ID 83251-0053

**Re: Antelope Creek Diversions – Head gates and Measuring Devices**

Bob,

This letter is written as a follow up to our recent phone conversation regarding compliance with the 2004 Administrative Order requiring the installation and maintenance of lockable head gates and measuring devices on diversions from Antelope Creek in WD 34. During our conversation you indicated that some of the diversions were in compliance with the order prior to the June 1, 2005 deadline, but many or all of the head gate and measuring device installations had been damaged or destroyed by high flows this spring. You indicated to me that these installations had not been repaired, and you further indicated that the water users would likely not repair the installations before next spring. You indicated that there is a feeling that, in many cases, repairing the installations is unnecessary or futile given the possibility that they will wash out each spring.

The Administrative Order requiring each diversion from Antelope Creek and tributaries to have a lockable head gate and measuring device was issued in response to a number of complaints by water users concerned about diversions from Antelope Creek. These users will likely continue to submit complaints and/or ask questions regarding delivery of water from Antelope Creek. In order to resolve these complaints, it is necessary to have accurate records of the water delivered at each of the diversions.

While the Administrative Order called for installation of head gates and measuring devices on all diversions from Antelope Creek, the Department recognizes that there may be some cases where this is impractical or unnecessary. The usual process for identifying such cases and exempting them from the requirements of the order is for the water user to submit a petition for reconsideration within 14 days of the date of the order. The Department did not receive any petitions for reconsideration after issuing the Administrative Order in 2004.

In order to understand the extent of the repair and installation problems that you referenced, please submit to the Department a list of the diversions on Antelope Creek by Friday, December 16, 2005 and indicate for each diversion whether or not it is in compliance with the Administrative Order. For those diversions that are not in compliance, please indicate when you expect it will be in compliance or give reasons why that diversion cannot be brought into compliance. The Department will evaluate the list and consider whether any diversions may be

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partially or wholly exempted from the requirement, or if there are other alternatives for bringing the diversions into compliance with the Department's order and Idaho Code. As part of the evaluation, and in support of other Department activities, IDWR personnel intend to visit and inventory the diversions on Antelope Creek before next spring.

Please call if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nick Miller', with a stylized, cursive script.

Nick Miller  
Water Distribution Section

cc: IDWR Eastern Region – Idaho Falls  
WD 34 2005 file

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